

Message Text

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51

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DRAFTED BY: RBOR:OGC/DLTIERNEY:FAS

APPROVED BY: EA/PHL:DCCUTHELL

RBOR/CCOFFMAN:OGC(IN DRAFT)

AMEAD:FAS

GSHANKLIN:FAS

RGOODMAN:FAS

ERBEVIS:AGR

EA/PHL:RTWILLNER

SPECIAL CHARGE: FAS/USDA

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FM SECSTATE WASHDC

TO AMEMBASSY MANILA IMMEDIATE

UNCLAS STATE 071491

E.O. 11652: N/A

TAGS: RP

SUBJECT: ALLENBERG COTTON COMPANY PA 45-760

FOR MR. HUME, FAS)

ON APRIL 5, 1974, THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TENNESSEE ISSUED A PRELIMINARY INJUNCTION IN THE CASE OF ALLENBERG COTTON COMPANY V. THE GOVERNMENT TO RESTRAIN THE GOVERNMENT FROM APPROVING OR DISBURSING GOVERNMENT FUNDS TO FINANCE THE PURCHASE BY VINOPO FROM ANYONE OTHER THAN ALLENBERG COTTON COMPANY OF 3,700 BALES OF COTTON PURSUANT TO A PURCHASE AUTHORIZATION ISSUED BY U.S.D.A. THE TEMPORARY INJUNCTION WAS ISSUED AFTER ORAL ARGUMENT AND BEFORE THE GOVERNMENT HAD AN OPPORTUNITY TO PRESENT ITS VERSION OF THE FACTS. THE CASE HAS BEEN SET FOR TRIAL WEDNESDAY, APRIL 24.

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UNDER THE PURCHASE AUTHORIZATION VINOPO HAD ISSUED A TENDER

INVITING BIDS FOR APPROXIMATELY 20,000 BALES OF COTTON. ALLENBERG HAD SUBMITTED BIDS FOR WHICH IT WAS THE LOW BIDDER ON 3,700 BALES. ITS BIDS WERE NOT ACCEPTED, HOWEVER, BECAUSE THE BIDS HAD NOT SPECIFIED THE PRESSLEY AND MICRONAIRE OF THE COTTON OFFERED. AFTER THE AGRICULTURE DEPARTMENT REFUSED TO INTERCEDE TO DISAPPROVE THE AWARDS, ALLENBERG INSTITUTED THIS LAW SUIT. THE COURT'S OPINION WAS BASED IN PART ON AN AFFIDAVIT BY BEN BAER, PRESIDENT OF ALLENBERG, THAT BETWEEN MARCH 11 AND MARCH 14 ALLENBERG WAS INFORMED BY DAVID HUME AND DAN TIERNEY OF FAS THAT NOTHING COULD BE DONE, AND THAT "BOTH MEN EXPRESSED TO ALLENBERG THEIR OPINIONS THAT THE CONTRACT SHOULD HAVE BEEN AWARDED TO ALLENBERG."

DAN TIERNEY HAS DENIED HAVING MADE SUCH STATEMENTS. IN FORMULATING DEFENSE IT IS IMPORTANT TO KNOW WHETHER YOU MADE SUCH A STATEMENT TO ALLENBERG. ALSO, IF THERE IS A NEED FOR YOU TO TESTIFY AT THE TRIAL OF THE CASE, WOULD YOU BE AVAILABLE TO TESTIFY IN MEMPHIS ON APRIL 24? PLEASE ADVISE PRIORITY. RUSH

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